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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,857	12/30/2003	Randall Cornfield	ICS-handle	6240
7590 05/17/2006			EXAMINER	
Louis Tessier 60 Balfour Town of Mount-Royal, QC H3P 1L6 CANADA			WILLIAMS, MARK A	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/748,857	Applicant(s) CORNFIELD, RANDALL	
	Examiner Mark A. Williams	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 39 is objected to because of the following informalities: in claim 39, line 12, "thump" apparently should be --thumb--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-14, 16-19, 26-28, 33, 35-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Herron et al., US Design Patent Des, 295,011. See below figures. The claimed handle is shown including a generally elongated body defining a body longitudinal axis, a body forward end for connection to said implement head and a longitudinally opposed body rearward end; said body also defining a body top surface and a substantially opposed body bottom surface; said body defining an encirclable section located intermediate said

body forward and rearward ends, said encirclable section being configured and sized so as to be graspable between at least a portion of a user's palm and at least a portion of at least either one of the user's middle, ring or small fingers at least partially encircling said encirclable section; said body top surface being provided with an identifiable thumb rest area located intermediate said encirclable section and said body forward end for contacting at least a portion of the distal pulp of said thumb, said thumb rest area defining a rest area forward most location; said body bottom surface being provided with a substantially concave indentation defining an indentation surface located intermediate the encirclable section and said body forward end for contacting at least a portion of one of said finger lateral surfaces of said index finger with the latter in substantially perpendicular relationship with said body longitudinal axis; said indentation surface having a substantially arcuate cross-sectional configuration defining an indentation first end located substantially adjacent said encirclable section and an indentation second end located substantially adjacent to said body forward end; said body defining a cross-sectional first reference plane extending in a substantially perpendicular relationship with said body longitudinal axis and in register with said indentation second end, said indentation surface being configured and sized so that at least a section of said indentation surface is positioned forwardly relative to said first reference plane. The

thumb rest is offset relative to the indentation, as claimed. The encirclable section is fusiform. An abutment section and the neck section together defining a thumb rest area on the body top surface, and an index rest area on the body bottom surface; said abutment section tapering forwardly into a spacing section for spacing the fingers from the implement head. The neck section defines a top surface nadir and a bottom surface nadir, as claimed. Top surface and bottom surface peaks as claimed are inherent.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 5, 15, 20-25, 29-31, 32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herron et al.

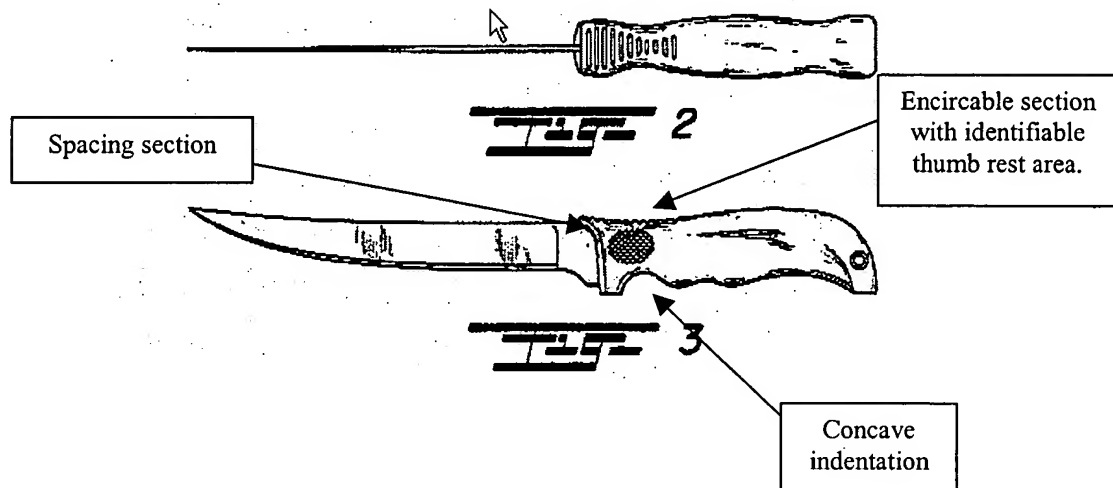
Regarding claim 4, Herron does not explicitly state the claimed values of a reference plane. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use such values, since it has been held that discovering an optimum value of a result effective variable involves only routine

skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Such a modification would have produced no unexpected results, and is not novel.

Regarding claims 20-25, 29-31, Herron discloses the claimed invention except for the device being of different materials, as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in this way, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Such a modification would have produced no unexpected results, and is not novel. On advantage to such a modification is that such a material would add in the gripping of the device.

Regarding claims 5, 15, 32, and 34, although these particular limitations are not explicitly shown, it would have been an obvious matter of design choice to make the different portions of the device of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Such modifications are not critical to the design and

would have produced no unexpected results. One reason for such modification may be for achieving a desire appearance of the handle.



Response to Arguments

5. Applicant's arguments filed 6/3/05 have been fully considered but they are not persuasive.

Applicant argues that structure directed to the device of US Design Patent 397,018. However this patent has not been applied in the previous Office Action. The claims as presented are rejected as outlined above.

Conclusion

This action is non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams
5/10/06



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER